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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,859	01/24/2000	Walter Joseph Mikulski	1.827.99	7735

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Walter Joseph Mikulski
AMCONGEN/RIMC
PSC 115
PO AE 09213-0115,
GERMANY

EXAMINER

DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 02/11/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/490 859

Applicant(s)

Mikulski

Examiner

Jerome W Donnelly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6-16-03
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 30-32 is/are allowed.
- 6) ☒ Claim(s) 30-32 is/are rejected.
- 7) ☒ Claim(s) 33+34 is/are objected to.
- 8) ☐ Claim(s) 33+34 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s)
- 4) ☐ Interview Summary (PTO-413) Paper No(s)
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Claims 33 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Chang.

Smith discloses a device comprising a resistance assembly comprising; a plurality of resistance elements (17), a gripping assembly (19) comprising: at least one gripping bar having an elongated configuration, said bar comprising a plurality of cushions mounted on the bar each of said cushions including a retaining member (32) structured to engage a portion of the users body during movement of the bar by the user.

Smith however does not specifically disclose his device wherein his resistance element has ends and said ends are secured to said gripping assembly.

Chang however teaches providing an exercise device wherein the resistance elements have a plurality of ends and wherein said ends are attached to a gripping assembly through a quick release assembly (23).

Given the above teachings the examiner notes that. It would have been obvious and that it is well known in the art to manufacture the resilient members of a resistance

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assembly having ends and a quick release arrangement, for the purpose of allowing a user to quickly alter and/or change out the resilient members as desired.

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang et al in view of Barrett.

Huang et al discloses a device comprising: a resistance assembly (100), a gripping assembly comprising a least one gripping bar, a plurality of cushions mounted on the bar, rollers (300) mounted on said bar and wherein said resistance assembly is connected to said gripping assembly.

Huang et al however does not disclose his device wherein his resilient resistance assembly comprises a plurality of elements.

Barnett discloses a device wherein the resilient members are comprised of multiple elastic card members.

Given the above options in the art of manufacturing the resistance assembly of a device using a single elastic member or a plurality of elastic members, the examiner notes that it would have been obvious to one of ordinary skill in the art to use a plurality of resistance members and connection means (38) as shown by Barret, as a convenient way to change elastic members when desired.

A broadly claimed the connecting plate which accommodates element (38) collectively secures the resistance elements together.

Claims 1-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or

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linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 15.

Applicant's election of Group II in Paper No. 15 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

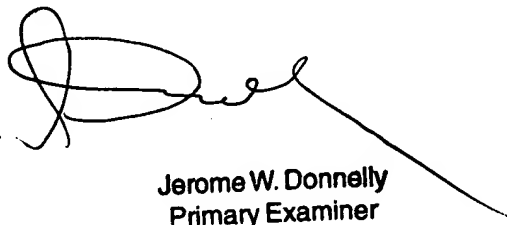
In claim 30 it is unclear as to whether or not, the device includes "at least two resistance assemblies" as set forth in paragraph "a" and again in paragraph "c".

The examiner is examining the claims as if the resistance members in paragraph "a" are the same as the resistance members in paragraph "c".

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.

Donnelly/DI

February 9, 2004



Jerome W. Donnelly
Primary Examiner